

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE: CONSTRUCTION EQUIPMENT
RENTAL ANTITRUST LITIGATION

Case No.: 1:25-cv-03487
MDL No. 3152

This Document Relates To:

Hon. Sara L. Ellis

All Actions

**PLAINTIFF VAN HORST GENERAL CONTRACTORS, LLC'S
MOTION TO APPOINT SAMANTHA M. GUPTA OF FREED KANNER LONDON &
MILLEN LLC TO A PLAINTIFF STEERING COMMITTEE**

INTRODUCTION

Pursuant to the Court’s August 26, 2025 order (ECF No. 99) and in accordance with Federal Rule of Civil Procedure 23(g), Plaintiff Van Horst General Contractors, LLC respectfully moves for the appointment of Samantha M. Gupta, of Freed Kanner London & Millen LLC (“FKLM”), to a Plaintiff Steering Committee. Based upon decades of experience successfully litigating antitrust class actions like this one, we believe the putative class will be best served by a lean and diverse structure comprised of two Co-Lead Counsel firms and a small Plaintiff Steering Committee. As set forth herein, Ms. Gupta is well qualified to serve on the proposed Plaintiff Steering Committee and has the full support of FKLM attorneys, who have a lengthy track record of successfully leading similar nationwide antitrust class actions across the United States, including in the Northern District of Illinois.

ARGUMENT

The complexity of this litigation supports the appointment of more than one firm as Interim Co-Lead Counsel, together with a small steering or executive committee to serve at the pleasure of the Court and Interim Co-Lead Counsel in performing assigned tasks on behalf of the class. *See* Third Circuit Task Force Report on Selection of Class Counsel, 208 F.R.D. 340, 417 (2002) (The “court should be cognizant of the possibility that the class could benefit from the combined resources and expertise of a number of class counsel.”). As such, courts in this District frequently approve multi-firm leadership structures in complex class actions. *See, e.g., In re Chi. Bd. Options Exch. Volatility Index Manipulation Antitrust Litig. (“VIX”)*, No. 1:2018-CV-4171, ECF No. 119 (N.D. Ill. Aug. 16, 2018) (Shah, J.) (appointing two co-lead counsel and a three-member steering committee); *In re Peregrine Financial Group Customer Litig.*, No. 12-cv-05546, ECF No. 50 (N.D. Ill. Oct. 5, 2012) (Coleman, J.) (same).

Leadership counsel should be appointed who are “best able to represent the interests of the class.” Fed. R. Civ. P. 23(g)(2). The Court should consider at least the following factors in doing so: “(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel’s knowledge of the applicable law; and (iv) the resources counsel will commit to representing the class.” Fed. R. Civ. P. 23(g)(1). In addition to the four “must” factors in Rule 23(g)(1)(A), the Court “may consider any other matter pertinent to counsel’s ability to fairly and adequately represent the interests of the class,” Fed. R. Civ. P. 23(g)(1)(B), which in this District includes the ability to work cooperatively with others and diversity. *See, e.g., Smith v. State Farm Auto. Ins. Co.*, 301 F.R.D. 284, 290 (N.D. Ill. 2014) (court noted applicant’s “demonstrated ability to work cooperatively with additional counsel in these consolidated actions.”); *VIX*, No. 1:2018-CV-4171, ECF No. 46 (N.D. Ill.) (Shah, J.) (court will consider team diversity and the potential for substantial work for junior attorneys in leadership determination); *In re FICO Antitrust Litig. Related Cases*, 2021 WL 4478042, at *3 (N.D. Ill. Sept. 30, 2021) (recognizing court may consider diversity “across axes of gender, race, and other aspects of identity” in leadership appointments).

I. A Small and Diverse Plaintiff Steering Committee Will Benefit the Class.

The Court should establish a small Steering Committee and appointing Ms. Gupta to that Committee would serve the best interests of the class for several reasons. First, Ms. Gupta is well-qualified and prepared to assume a secondary leadership role in this case. Second, courts increasingly recognize the value of including counsel in leadership with diverse backgrounds, experiences and viewpoints, all of which Ms. Gupta would bring to the proposed Plaintiff Steering Committee. Third, Ms. Gupta’s and FKLM’s practice model is based on collaboration with other

plaintiffs' firms in larger, more complex litigation. We have worked effectively and efficiently with each plaintiff firm appearing in this matter to date. We are also acutely aware of concerns regarding potential inefficiencies associated with over lawyering and have learned to work seamlessly with other law firms to minimize those issues. Finally, Ms. Gupta and FKLM possess the skill and capacity to commit the necessary economic and labor resources to this matter.

A. Samantha M. Gupta

Ms. Gupta is a senior associate at Freed Kanner London & Millen LLC's ("FKLM") Chicago office, where she specializes in plaintiff-side antitrust class actions. Since graduating from law school in 2015, Ms. Gupta has developed varied and extensive litigation experience. Starting her career as a public defender, Ms. Gupta was responsible for representing indigent defendants throughout all phases of criminal proceedings. Early on in her career, she had the opportunity to argue and conduct various bail, suppression, and evidentiary hearings and participate in bench and jury trials.

This background informed and strengthened her transition into complex antitrust litigation. Approximately a year after joining the antitrust practice at Zelle LLP in 2022, she became a member of the trial team representing the plaintiff in an antitrust case in the United States District Court for the Southern District of California. *See Pacific Surf Designs, Inc. vs. WhiteWater West Industries, Ltd., et al.*, Case No. 3:20-cv-01464-BEN-DDL (S.D. Cal.). Drawing on her courtroom and advocacy experience, Ms. Gupta was responsible for multiple *in limine* motions and presenting an expert witness to the jury regarding relevant product market and geographic market, issues the jury ultimately decided in Plaintiff's favor. In that role, she also successfully excluded significant portions of Defendants' cross examination and defeated a motion to exclude net present value damages.

Ms. Gupta subsequently developed significant expertise in managing fact and expert discovery in large, complex litigation. She spent several years representing the FDIC and Freddie Mac as Receiver for 39 Closed Banks in *In re LIBOR-Based Financial Instruments Antitrust Litigation*, MDL No. 2262, No. 1:11-md-02262 (S.D.N.Y.). Supporting the firm's role as liaison counsel for more than two dozen Direct Action Plaintiffs, Ms. Gupta handled day-to-day responsibilities, managed ESI discovery, deposed witnesses, conducted expert discovery, and played a key role in drafting oppositions to summary judgment and *Daubert* motions. A team player and a member of a lean litigation group, she also has extensive experience performing work often delegated to younger attorneys such as assessing and reviewing documents produced in discovery.

Since joining FKLM earlier this year, Ms. Gupta has been engaged in multiple plaintiff-side antitrust matters in which she both supports partners and further develops her own practice, negotiating and managing complex ESI discovery, briefing motions, taking depositions, and regularly participating in teamwide efforts to develop case theories and litigation strategies. Her perspective and experience as a trial lawyer uniquely enables her to identify potential evidentiary weaknesses, develop innovative case theories, and prepare experts and attorneys for arguments and depositions through mock examinations.

As a relatively young attorney, Ms. Gupta has not previously sought formal court appointment to a leadership position in a multi-district matter. As the Duke Law Center found, there is a substantial benefit in leadership appointments for qualified younger attorneys in MDLs, which "improve the likelihood of consideration of diverse ideas and perspectives."¹ Inclusion of

¹ Bolch Judicial Institute, Duke Law School, Guidelines and Best Practices for Large and Mass-Tort MDLs, at 45 (2d ed., Sept. 2018) ("Duke Guidelines"), available at <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1004&context=bolch>.

diverse, younger attorneys helps combat the “repeat player dynamic,” which “reduces fresh outlooks and innovative ideas, and increases pressure to go along with the group and conform, all of which may negatively impact the plaintiffs whose cases are being pursued in the MDL.”² Likewise, some transferee judges look to identify new entrants, like Ms. Gupta, who are ready for their first appointment, and “research shows that having a mix of experienced and new players enhances creativity and innovation, leads to better decision making and problem solving, and promotes discussion of novel concepts raised by those who historically have not been in leadership.”³ Indeed, courts have recognized the value of “leadership development” appointments in plaintiff leadership structures, providing opportunities for attorneys who have not yet led a consolidated action like this in a way that also benefits the litigation.⁴

In summary, Ms. Gupta is a qualified attorney who is ready to lead and has the necessary time to devote to this litigation as a member of the proposed Plaintiff Steering Committee.

B. Freed Kanner London & Millen LLC

At all times, Ms. Gupta will benefit from the advice and support of her firm. FKLM, with offices in Chicago and Philadelphia, has a reputation as one of the most effective Plaintiffs’ litigation firms in the nation, having secured billions of dollars in recoveries for the clients and classes. Its attorneys have been appointed to lead, executive, or steering committee roles in class

² *Id.*

³ *See id.* at 40, 46.

⁴ *See, e.g., In re: Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation*, MDL No. 3014, ECF No. 395 at 11 (W.D. Pa. Feb. 15, 2022) (appointing a ten member “leadership development committee” and mandating that its members “meaningfully participate in all phases of [the litigation] including, but not limited to, participation on committees and subcommittees, drafting master complaints, drafting and arguing briefs, participating in settlement negotiations, and preparing for and taking depositions of lay witnesses and expert witnesses.”).

action litigation throughout the United States resulting in significant recoveries, including two of the three largest civil antitrust settlements ever obtained in the Seventh Circuit.⁵

Peers, courts, and the legal media alike recognize FKLM's focus and commitment to excellence, selecting the firm and its attorneys for numerous leadership roles and honors. For example, the partners of FKLM have been appointed to leadership positions in many of the largest antitrust class action cases in the District, including:

- *In re Frozen Potato Products Antitrust Litig.*, No. 24-cv-11801 (N.D. Ill. Aug. 20, 2025) (Cummings, J.): FKLM was appointed as interim co-lead counsel for the commercial indirect purchasers of frozen potato products, including French fries, hash browns, and tater tots.
- *In re Local TV Advertising Antitrust Litig.*, No. 18-cv-06785 (N.D. Ill. Jan. 23, 2019) (Kendall, C.J.): FKLM partner Kimberly Justice serves on the Plaintiffs Steering Committee and FKLM serves as Liaison Counsel. The court has approved \$48 million in partial settlements to date.
- *In re Opana ER Antitrust Litig.*, No. 14-cv-10150, MDL 2580 (N.D. Ill. Apr. 2, 2015) (Leinenweber, J.): FKLM attorneys served as co-lead counsel on behalf of indirect purchasers of brand or generic Opana ER, an opioid painkiller, in this “pay-for-delay” case brought under the laws of 30 states. Counsel obtained a \$15 million settlement with one defendant during trial.
- *Kleen Products, et al. v. International Paper, et al.*, No. 10-cv-05711 (N.D. Ill. Jan. 20, 2011) (Leinenweber, J.): FKLM's sophisticated lawyering resulted in a \$354 million settlement with certain defendants. The settlement is believed to be the third largest civil antitrust settlement ever obtained in the Seventh Circuit and was the largest settlement in any Illinois civil action in 2018. *See* The Cook County Jury Verdict Reporter at <https://lawbulletinmedia.com/press/trial-lawyer-excellence-award-winners-for-2018-announced/>.
- *In re Aftermarket Filters Antitrust Litigation*, MDL No. 1957 (N.D. Ill.) (Gettleman, J.): FKLM attorneys served as co-lead counsel on behalf of direct purchasers of replacement automobile air and oil filters in a nationwide antitrust price-fixing case, obtaining settlements of nearly \$18 million.

⁵ *See Gupta Decl.*, Ex. A (FKLM Firm Resume); *see also* Davis, Joshua Paul and Clark, Rose Kohles, 2024 Antitrust Annual Report: Class Actions in Federal Court (July 31, 2025) (available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5374409) (ranking FKLM antitrust settlements among the top in the nation).

- *In re Brand Name Prescription Drugs Antitrust Litigation*, MDL No. 997 (N.D. Ill.) (Kocoras, J.): FKLM attorneys served as co-lead counsel in this antitrust price-fixing class action. Settlements totaling approximately \$715 million were recovered on behalf of the plaintiff class, which is still the largest antitrust class action settlement within the Seventh Circuit.
- *In re Clozapine Antitrust Litigation*, MDL No. 874 (N.D. Ill.) (Leinenweber, J.): FKLM attorneys served as co-lead counsel in this antitrust class action against Caremark and Sandoz Pharmaceuticals alleging that the defendants entered into an illegal agreement to distribute a drug known as Clozaril by tying it to the purchase of a blood testing system, by fixing the price of the packaged sale, and by conspiring to monopolize the relevant market. More than \$20 million was recovered for the class.
- *SchagrinGas Co. v. BP Products North America, et al.*, No. 1:06-cv-3621 (N.D. Ill.) (Zagel, J.): FKLM attorneys served as co-lead counsel on behalf of direct purchaser plaintiffs in this nationwide class action involving monopolization claims under Section 2 of the Sherman Act. The case resulted in a settlement of over \$50 million.

In addition, in recent years, FKLM received the American Antitrust Institute's Award for Outstanding Antitrust Litigation Achievement in Private Law Practice for its role as Co-Lead Counsel in *In re Peanut Farmers Antitrust Litigation*, 2:19-cv-00463 (E.D. Va.) which settled for \$102.75 million and for its role in *Cameron et al. v. Apple Inc.*, 4:19-cv-03074 (N.D. Cal.), an antitrust case brought on behalf of application developers that settled for \$100 million. Likewise, United States District Court Judge Raymond Jackson praised the firm's "effective and efficient prosecution" of the *Peanut Farmers* case in discovery, class certification, fully briefed summary judgment practice, and full trial preparation that led to "an excellent result for the Class," without the benefit of a government investigation.⁶ Finally, Chambers & Partners USA recognizes FKLM as a "famous class action firm," consistently ranking it among the nation's top antitrust firms.⁷

⁶ *In re Peanut Farmers Antitrust Litig.*, 2021 WL 9494033, at *2 & 3 (E.D. Va., Aug. 10, 2021).

⁷ See Gupta Decl., Ex. A.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court appoint Samantha M. Gupta to a Plaintiff Steering Committee.

Dated: August 28, 2025

Respectfully submitted,

/s/ Robert J. Wozniak

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